

**UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF NEW YORK**

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**SEMYON GRINBLAT, individually and on  
behalf of all others similarly situated,**

**Plaintiff,**

**v.**

**DEFENDANTS' ANSWER TO  
COMPLAINT**

**1:18-cv-5250-MKB-RER**

**BOSTON MARKET CORPORATION and  
DAFRE, LLC,**

**Defendants.**

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**DEFENDANTS' ANSWER TO COMPLAINT**

Defendants Boston Market Corporation and Dafre, LLC ("Defendants") hereby  
answer Plaintiff Semyon Grinblat's ("Plaintiff") Complaint as follows:

1. In response to paragraph 1 of the Complaint, Defendants state that the  
Complaint speaks for itself. Defendants deny any remaining factual allegations in  
paragraph 1.

2. In response to paragraph 2 of the Complaint, Defendants state that the  
Complaint speaks for itself such that no admission or denial is necessary.

3. In response to paragraph 3 of the Complaint, Defendants state that the  
Complaint speaks for itself such that no admission or denial is necessary.

**JURISDICTION AND VENUE**

4. In response to paragraph 4 of the Complaint, Defendants admit this Court  
has jurisdiction over the federal claims asserted in the Complaint.

5. In response to paragraph 5 of the Complaint, Defendants deny the Court should exercise supplemental jurisdiction of the alleged state claims.

6. In response to paragraph 6 of the Complaint, Defendants admit venue is proper in this district.

### **PARTIES**

7. In response to paragraph 7 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

8. In response to paragraph 8 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

9. In response to paragraph 9 of the Complaint, Boston Market admits it is licensed to do business in the state of New York and operates a restaurant located at 50-01 Queens Boulevard, Woodside NY 11377.

10. In response to paragraph 10 of the Complaint, Boston Market admits it operates the Subject Facility, portions of which are open to the public.

11. In response to paragraph 11 of the Complaint, Dafre, LLC admits it is licensed to conduct business in the state of New York and it owns the real property located at 50-01 Queens Boulevard, Woodside NY 11377, which is leased to Boston Market.

12. In response to paragraph 12 of the Complaint, Defendants state that the law speaks for itself.

13. In response to paragraph 13 of the Complaint, Defendants state that the law speaks for itself.

14. In response to paragraph 14 of the Complaint, Defendants admit either one or both currently own and/or operate the Subject Facility. Defendants deny the remaining allegations in paragraph 14.

15. In response to paragraph 15 of the Complaint, Defendants state the Complaint speaks for itself. Defendants deny any factual allegations in paragraph 15.

**CLASS ACTION**

16. In response to paragraph 16 of the Complaint, Defendants state that the Complaint speaks for itself. Defendants deny that this action is appropriate for class treatment.

17. In response to paragraph 17 of the Complaint, Defendants state that the Complaint speaks for itself. Defendants deny that this action is appropriate for class treatment.

18. In response to paragraph 18 of the Complaint, Defendants deny the allegations therein.

19. In response to paragraph 19 of the Complaint, Defendants deny the allegations therein.

20. In response to paragraph 20 of the Complaint, Defendants deny the allegations therein and that this case is proper for class treatment.

21. In response to paragraph 21 of the Complaint, Defendants deny the allegations therein.

22. In response to paragraph 22 of the Complaint, Defendants deny the allegations therein.

23. In response to paragraph 23 of the Complaint, Defendants deny the allegations therein.

24. In response to paragraph 24 of the Complaint, Defendants state that the allegations speak for themselves such that no admission or denial is necessary.

**STATUTES**

25. In response to paragraph 25 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary.

26. In response to paragraph 26 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary.

27. In response to paragraph 27 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary.

28. In response to paragraph 28 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary.

29. In response to paragraph 29 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary.

30. In response to paragraph 30 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary.

31. In response to paragraph 31 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary.

32. In response to paragraph 32 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary.

33. In response to paragraph 33 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary.

34. In response to paragraph 34 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary.

35. In response to paragraph 35 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary. Defendants deny any factual allegations therein.

36. In response to paragraph 36 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary.

37. In response to paragraph 37 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary.

38. In response to paragraph 38 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary.

39. In response to paragraph 39 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary.

40. In response to paragraph 40 of the Complaint, Defendants state that the cited law speaks for itself such that no admission or denial is necessary.

41. In response to paragraph 41 of the Complaint, Defendants deny the allegations therein.

42. In response to paragraph 42 of the Complaint, Defendants denies the allegations therein.

### **FIRST CAUSE OF ACTION**

43. In response to paragraph 43 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

44. In response to paragraph 44 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

45. In response to paragraph 45 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

46. In response to paragraph 46 of the Complaint, Defendants admit to owning and/or operating the Subject Facility, portions of which are open to the public. Defendants deny any remaining allegations of paragraph 46.

47. In response to paragraph 47 of the Complaint, Defendants admit the allegations.

48. In response to paragraph 48 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

49. In response to paragraph 49 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

50. In response to paragraph 50 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

51. In response to paragraph 51 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

52. In response to paragraph 52 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

53. In response to paragraph 53 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

54. In response to paragraph 54 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

55. In response to paragraph 55 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations, and on that basis denies them.

56. In response to paragraph 56 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

57. In response to paragraph 57 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

58. In response to paragraph 58 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

59. In response to paragraph 59 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them.

60. In response to paragraph 60 of the Complaint, Defendants deny the allegations.

61. In response to paragraph 61 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations related to Plaintiff, and on that basis denies them. Defendant further denies Plaintiff was discriminated against in any manner.

62. In response to paragraph 62 of the Complaint, Defendants state the law speaks for itself such that no admission or denial is necessary to respond to these allegations.

63. In response to paragraph 63 of the Complaint, Defendants deny the allegations.

64. In response to paragraph 64 of the Complaint, Defendants deny the allegations.

65. In response to paragraph 65 of the Complaint, Defendants state the law speaks for itself such that no admission or denial is necessary to respond to these allegations.

66. In response to paragraph 66 of the Complaint, Defendants deny the allegations.

67. In response to paragraph 67 of the Complaint, Defendants deny the allegations.

68. In response to paragraph 68 of the Complaint, Defendants state the law speaks for itself such that no admission or denial is necessary to respond to these allegations. Defendants also lack knowledge or information sufficient to admit or deny the allegations regarding Plaintiff personally, and on that basis deny them. Defendants deny any remaining allegations.

69. In response to paragraph 69 of the Complaint, Defendants state the law speaks for itself such that no admission or denial is necessary to respond to these allegations. Defendants deny any remaining allegations.

70. In response to paragraph 70 of the Complaint, Defendants state the law speaks for itself such that no admission or denial is necessary to respond to these allegations. Defendants also lack knowledge or information sufficient to admit or deny the allegations regarding Plaintiff personally, and on that basis deny them. Defendants deny any remaining allegations.

71. In response to paragraph 71 of the Complaint, Defendants state the law speaks for itself such that no admission or denial is necessary to respond to these allegations. Defendants also lack knowledge or information sufficient to admit or deny the allegations regarding Plaintiff personally, and on that basis deny them. Defendants deny any remaining allegations.

72. In response to paragraph 72 of the Complaint, Defendants state the law speaks for itself such that no admission or denial is necessary to respond to these allegations. Defendants also lack knowledge or information sufficient to admit or deny the allegations regarding Plaintiff personally, and on that basis deny them. Defendants deny any remaining allegations.

73. In response to paragraph 73 of the Complaint, Defendants state the law speaks for itself such that no admission or denial is necessary to respond to these allegations. Defendants also lack knowledge or information sufficient to admit or deny



the allegations regarding Plaintiff personally, and on that basis deny them. Defendants deny any remaining allegations.

74. In response to paragraph 74 of the Complaint, Defendants state the law speaks for itself such that no admission or denial is necessary to respond to these allegations. Defendants deny any remaining allegations.

75. In response to paragraph 75 of the Complaint, Defendants state the law speaks for itself such that no admission or denial is necessary to respond to these allegations. Defendants deny any remaining allegations.

76. In response to paragraph 76 of the Complaint, Defendants state the law speaks for itself such that no admission or denial is necessary to respond to these allegations. Defendants also lack knowledge or information sufficient to admit or deny the allegations regarding Plaintiff personally, and on that basis deny them. Defendants deny any remaining allegations.

77. In response to paragraph 77 of the Complaint, Defendants state the law speaks for itself such that no admission or denial is necessary to respond to these allegations, however, forward approach is not required where parallel approach has been provided. Defendants also lack knowledge or information sufficient to admit or deny the allegations regarding Plaintiff personally, and on that basis deny them. Defendants deny any remaining allegations.

78. In response to paragraph 78 of the Complaint, Defendants deny the allegations.

79. In response to paragraph 79 of the Complaint, Defendants deny the allegations.

80. In response to paragraph 80 of the Complaint, Defendants are without knowledge or information sufficient to form a belief to the truth of the allegations, and on that basis deny them.

81. In response to paragraph 81 of the Complaint, Defendants deny the allegations.

82. In response to paragraph 82 of the Complaint, Defendants deny the allegations.

83. In response to paragraph 83 of the Complaint, Defendants deny the allegations.

84. In response to paragraph 84 of the Complaint, the legal requirements of the ADA speak for themselves such that no admission or denial is necessary. Defendants deny the remaining allegations.

85. In response to paragraph 85 of the Complaint, Defendants deny the allegations.

86. In response to paragraph 86 of the Complaint, Defendants deny the allegations.

87. In response to paragraph 87 of the Complaint, Defendants deny the allegations.

88. In response to paragraph 88 of the Complaint, the legal requirements of the ADA speak for themselves such that no admission or denial is necessary. Defendants deny the remaining allegations.

89. In response to paragraph 89 of the Complaint, Defendants deny the allegations.

90. In response to paragraph 90 of the Complaint, Defendants deny the allegations.

91. In response to paragraph 91 of the Complaint, Defendants deny the allegations.

92. In response to paragraph 92 of the Complaint, Defendants deny the allegations.

93. In response to paragraph 93 of the Complaint, Defendants deny the allegations.

94. In response to paragraph 94 of the Complaint, Defendants admit the Court has authority to grant injunctive relief, but deny it is necessary or appropriate here.

95. In response to paragraph 95 of the Complaint, Defendants deny the allegations.

96. In response to paragraph 96 of the Complaint, Defendants deny the allegations.

### **SECOND CAUSE OF ACTION**

97. In response to paragraph 97 of the Complaint, Defendants incorporate by reference the previous responses set forth in this answer as if fully set forth herein.

98. In response to paragraph 98 of the Complaint, the cited law speaks for itself such that no admission or denial is necessary.

99. In response to paragraph 99 of the Complaint, Defendants admit portions of the property are open to the public and a public accommodation.

100. In response to paragraph 100 of the Complaint, Defendants deny the allegations.

101. In response to paragraph 101 of the Complaint, Defendants deny the allegations.

102. In response to paragraph 102 of the Complaint, Defendants deny the allegations.

103. In response to paragraph 103 of the Complaint, Defendants deny the allegations.

104. In response to paragraph 104 of the Complaint, Defendants deny the allegations.

105. In response to paragraph 105 of the Complaint, Defendants deny the allegations.

106. In response to paragraph 106 of the Complaint, Defendants deny the allegations.

107. In response to paragraph 107 of the Complaint, Defendants deny the allegations.

108. In response to paragraph 108 of the Complaint, Defendants deny the allegations.

109. In response to paragraph 109 of the Complaint, Defendants deny the allegations.

110. In response to paragraph 110 of the Complaint, Defendants deny the allegations.

111. In response to paragraph 111 of the Complaint, Defendants state that the Complaint speaks for itself. Defendants deny any compensatory damages are warranted.

### **THIRD CAUSE OF ACTION**

112. In response to paragraph 112 of the Complaint, Defendants incorporate by reference the previous responses set forth in this answer as if fully set forth herein.

113. In response to paragraph 113 of the Complaint, Defendants deny the allegations.

114. In response to paragraph 114 of the Complaint, Defendants deny the allegations.

115. In response to paragraph 115 of the Complaint, Defendants deny the allegations.

116. In response to paragraph 116 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to truth of the allegations, and on that basis deny them.

### **FOURTH CAUSE OF ACTION**

117. In response to paragraph 117 of the Complaint, Defendants incorporate by reference the previous responses set forth in this answer as if fully set forth herein.

118. In response to paragraph 118 of the Complaint, Defendants state that the law speaks for itself such that an admission or denial is not necessary.

119. In response to paragraph 119 of the Complaint, Defendants deny the allegations.

120. In response to paragraph 120 of the Complaint, Defendants deny the allegations.

121. In response to paragraph 121 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations about Plaintiff, and on that basis deny them. Defendants deny any remaining allegations.

122. In response to paragraph 122 of the Complaint, Defendants deny the allegations.

123. In response to paragraph 123 of the Complaint, Defendants deny the allegations.

124. In response to paragraph 124 of the Complaint, Defendants deny the allegations.

125. In response to paragraph 125 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to truth of the allegations, and on that basis deny them.

126. In response to paragraph 126 of the Complaint, Defendants deny the allegations.

127. In response to paragraph 127 of the Complaint, Defendants state that the Complaint speaks for itself. Defendants deny any damages are warranted.

#### **ATTORNEY'S FEES AND COSTS**

128. In response to paragraph 128 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations about Plaintiff, and on that basis deny them. Defendants deny any remaining allegations.

129. In response to paragraph 129 of the Complaint, Defendants state that the Complaint speaks for itself. Defendants deny any damages are warranted.

130. In response to paragraph 130 of the Complaint, Defendants state that the Complaint speaks for itself. Defendants deny any damages are warranted.

131. In response to paragraph 131 of the Complaint, Defendants state that the Complaint speaks for itself. Defendants deny any damages are warranted.

132. In response to paragraph 132 of the Complaint, Defendants state that the Complaint speaks for itself. Defendants deny any injunctive relief is warranted.

133. In response to paragraph 133 of the Complaint, Defendants state that the Complaint speaks for itself. Defendants deny any relief is warranted.

134. In response to paragraph 134 of the Complaint, Defendants state that the Complaint speaks for itself. Defendants deny any relief is warranted.

135. In response to paragraph 135 of the Complaint, Defendants state that the Complaint speaks for itself. Defendants deny any relief is warranted.

136. In response to paragraph 136 of the Complaint, Defendants deny the allegations.

137. In response to paragraph 137 of the Complaint, Defendants deny the allegations.

### **AFFIRMATIVE DEFENSES**

#### **FIRST SEPARATE AND ADDITIONAL DEFENSE**

1. The Complaint fails to state facts sufficient to constitute a valid cause of action against Defendants.

#### **SECOND SEPARATE AND ADDITIONAL DEFENSE**

2. Plaintiff lacks standing to pursue his claims against the properties identified because he did not suffer an injury in fact or face an immediate threat of future injury. Plaintiff has not alleged and does not have real, concrete plans to return to the

property. Plaintiff further lacks standing to the extent he seeks relief for alleged barriers that he did not encounter or that did not impact his particular disability.

**THIRD SEPARATE AND ADDITIONAL DEFENSE**

3. The Complaint and each purported cause of action alleged therein is barred, in whole or in part, by the doctrine of estoppel.

**FOURTH SEPARATE AND ADDITIONAL DEFENSE**

4. Defendants assert that Plaintiff has acted with “unclean hands” and such actions are directly related to the claims by Plaintiff in the Complaint which precludes Plaintiff from pursuing the claims in the Complaint or receiving injunctive relief.

**FIFTH SEPARATE AND ADDITIONAL DEFENSE**

5. Plaintiff’s claims are barred, in whole or in part, because the challenged conditions no longer exist, have never existed, or are not violations of the ADA even if what asserted is true, and there is no threat of future injury; thus, Plaintiff will not again be subjected to the same alleged wrongful conduct by Defendants.

**SIXTH SEPARATE AND ADDITIONAL DEFENSE**

6. All of Plaintiff’s claims are barred because, to the extent architectural barriers alleged by Plaintiff exist, the barriers are *de minimis* and/or are within conventional building industry tolerances.

**SEVENTH SEPARATE AND ADDITIONAL DEFENSE**

7. All of Plaintiff’s claims are barred because Defendants provided equivalent facilitation at the premises.

**EIGHTH SEPARATE AND ADDITIONAL DEFENSE**

8. All of Plaintiff’s claims are barred because, to the extent architectural barriers alleged by Plaintiff exist, the removal of such barriers is virtually impossible.

**NINTH SEPARATE AND ADDITIONAL DEFENSE**

9. All of Plaintiff’s claims are barred because, to the extent architectural barriers alleged by Plaintiff exist, the modification of such barriers is not readily

achievable.

**TENTH SEPARATE AND ADDITIONAL DEFENSE**

10. All of Plaintiff's claims are barred because, to the extent architectural barriers alleged by Plaintiff exist, the removal of such barriers is structurally impractical.

**ELEVENTH SEPARATE AND ADDITIONAL DEFENSE**

11. All of Plaintiff's claims are barred because, to the extent architectural barriers alleged by Plaintiff exist, the removal of such barriers is technically infeasible.

**TWELFTH SEPARATE AND ADDITIONAL DEFENSE**

12. All of Plaintiff's claims are barred because, to the extent architectural barriers exist at the property, the removal of such barriers would result in an undue burden on Defendants

**THIRTEENTH SEPARATE AND ADDITIONAL DEFENSE**

13. All of Plaintiff's claims are barred because barred because any remediations did not constitute alterations, and to the extent there were any alterations, Defendants did so to the maximum extent feasible standard or the requested modification is technically infeasible.

**FOURTEENTH SEPARATE AND ADDITIONAL DEFENSE**

14. All of Plaintiff's claims are barred because the building was built prior to enactment of ADA, NY Human Rights Law, and NY City Administrative Code, and is not subject to the provision of these laws and regulations.

**FIFTEENTH SEPARATE AND ADDITIONAL DEFENSE**

15. Defendants reserve the right to allege additional defenses as they become known during discovery, and to amend its Answer accordingly.

**DEMAND FOR JURY**

Defendants hereby demand a jury on all issues raised in the Complaint.



**PRAYER**

**WHEREFORE**, Defendants pray for judgment as follows:

1. That class certification be denied;
2. Plaintiff take nothing by way of his Complaint;
3. That Judgment be rendered in favor of Defendants, against Plaintiff and that the Complaint be dismissed with prejudice;
4. That Defendants be awarded their costs of suit incurred in the defense of this action; and
5. For such other relief as the Court deems proper.

Dated: October 30, 2018

By: /s/ Kent Christensen  
Kent Christensen (Cal. Bar #253815)

Attorneys for Defendants  
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**CERTIFICATE OF SERVICE**

I certify that on October 30, 2018, I caused the foregoing document to be filed using the CM/ECF System in the United States District Court for Eastern District of New York, which caused the Plaintiff to be served by electronic mail, as more fully reflected on the notice of electronic filing.

/s/ Kent Christensen